

**AGREEMENT BETWEEN
LAKE COUNTY, FLORIDA
AND TIERRA, INC.**

FOR

**Construction Engineering Inspection (CEI), Materials Testing and Post-Design Engineering
Services for CR-466A Phase I from Sunny Court to US-27/441 Project
RSQ # 16-0010**

This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida, herein referred to as "COUNTY", and Tierra, Inc., a Florida for profit corporation, its successors and assigns, herein referred to as "CONSULTANT".

WITNESSETH:

WHEREAS, the COUNTY publicly submitted a Request for Statements of Qualifications (RSQ) #16-0010 for firms qualified to provide Construction, Engineering, Inspection ("CEI"), materials verification testing and post-design engineering services for the construction of the CR-466A Phase I from Sunny Court to US-27/441 from the existing rural two-lane roadway to an urban four-lane roadway; and

WHEREAS, CONSULTANT desires to perform such services subject to the terms of this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, promises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

Article 1. Recitals

The foregoing recitals are true and correct and incorporated herein.

Article 2. Scope of Professional Services

2.1 On the terms and conditions set forth in this Agreement, COUNTY hereby engages CONSULTANT to provide Construction, Engineering, Inspection ("CEI"), materials verification testing and post-design engineering services for the construction of the CR-466A Phase I from Sunny Court to US-27/441 from the existing rural two-lane roadway to an urban four-lane roadway, hereinafter referred to as the "Project", in accordance with the Scope of Work attached hereto as **Attachment A**, incorporated herein by reference. This Project will be funded through a grant from the Florida Department of Transportation ("FDOT"). All FDOT regulations and guidelines for use of the funds will apply to this Project.

2.2 The CONSULTANT agrees and acknowledges that time is of the essence in completing the Scope of Work identified herein. All services shall be completed no later than the date specified in the Scope of Work, unless a written change order has been duly executed by both parties. Continuation of the performance period beyond the initial period is a COUNTY prerogative, and not a right of the CONSULTANT. This prerogative may only be exercised when such continuation is clearly in the best interest of the COUNTY.

2.3 This Agreement shall commence upon the date of the written Notice to Proceed from the COUNTY and shall remain in effect until the Project is completed and accepted by the COUNTY's authorized

representative and shall remain in effect until completion of any expressed and/or implied warranty periods. The CONSULTANT shall maintain, for the entirety of this Agreement, if any, the same prices, terms, and conditions included within this Agreement.

2.4 The CONSULTANT shall coordinate, cooperate, and work with any other consultants retained by the COUNTY. CONSULTANT acknowledges that nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the CONSULTANT or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

Article 3. Payment

3.1 The COUNTY shall pay CONSULTANT to complete the Scope of Work in an amount not to exceed \$219,480.00, more fully detailed in the Pricing Schedule attached hereto as **Attachment B**, incorporated herein.

3.2 The CONSULTANT shall submit monthly invoices in duplicate to the requesting County department at P.O. Box 7800, Tavares, Florida 32778, unless the CONSULTANT is notified in writing by COUNTY of a different address and location of the COUNTY office. Each invoice shall contain the RSQ number, a detailed description of services and fees, dates and locations of services, and confirmation of acceptance of the goods or services by the appropriate COUNTY representative. The CONSULTANT shall keep a travel log indicating all dates of travel, mileage, etc.

3.3 The COUNTY shall make payment on all invoices in accordance with the Florida Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. Failure to submit invoices in the prescribed manner will delay payment, and CONSULTANT may be considered in default of contract and the contract may be terminated.

3.4 Other than the approved total hours and related direct expenses composing the negotiated lump sum fee, the CONSULTANT shall not be entitled to payment for any expenses, fees, or other costs it may incur at any time and in any connection with its performance hereunder.

3.5 **CONSULTANT hereby agrees and acknowledges that this Agreement is funded through a State of Florida, Department of Transportation Economic Development Transportation Project Fund Agreement, FM#430253-2-58-01, Contract #ARU03.** CONSULTANT hereby agrees to comply with all requirements of the funding entity applicable to the use of the monies. The CONSULTANT is advised that payments under this Agreement may be withheld pending completion and submission of all required forms and documents required of the CONSULTANT pursuant to the funding requirements. A copy of the requirements shall be supplied to the CONSULTANT upon request.

3.6 CONSULTANT acknowledges and agrees that if the services provided under this Agreement are being supported in whole or in part by Federal and/or State funding, CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify system in accordance with the terms governing use of the system to confirm the employment eligibility of:

- A. All persons employed by the CONSULTANT during the term of this Agreement to perform employment duties within Lake COUNTY; and
- B. All persons, including sub-consultants, assigned by the CONSULTANT to perform work pursuant to the contract.

Article 4. COUNTY Responsibilities

4.1 COUNTY shall promptly review the deliverables and other materials submitted by CONSULTANT and provide direction to CONSULTANT as needed. COUNTY shall designate one COUNTY staff member to act as COUNTY'S Project Manager.

4.2 COUNTY shall reimburse CONSULTANT, in accordance with the provisions of Article 3 above for required services timely submitted and approved and accepted by COUNTY in accordance with the terms of this Agreement.

4.3 COUNTY will provide to the CONSULTANT all necessary and available data, photos, and documents the COUNTY possesses that would be useful to the CONSULTANT in the completion of the required services.

Article 5. Special Terms and Conditions

5.1 Qualifications. CONSULTANT shall during the entire duration and renewal(s) of this Agreement shall be registered with the State of Florida and have obtained at least the minimum thresholds of education and professional experience required by the statutes to perform the services contained herein. CONSULTANT shall be registered with the Florida Department of State in accordance with the provisions of Chapter 607, Florida Statutes.

5.2 Key Contractor Personnel. The CONSULTANT agrees that each person listed or referenced in the qualifications package shall be available to perform the services described herein for the COUNTY barring illness, accident, or other unforeseeable events of a similar nature in which case the CONSULTANT must be able to promptly provide a qualified replacement. In the event the CONSULTANT desires to substitute personnel, the CONSULTANT shall propose a person with equal or higher qualifications and each replacement person is subject to prior written approval of the COUNTY. In the event the requested substitute is not satisfactory to the COUNTY and the matter cannot be resolved to the satisfaction of the COUNTY, the COUNTY reserves the right to terminate this Agreement.

5.3 Termination.

- A. Termination for Convenience: The COUNTY, at its sole discretion, reserves the right to terminate this Agreement upon thirty (30) days written notice. Upon receipt of such notice, the CONSULTANT shall not incur any additional costs under this Agreement. The COUNTY shall be liable only for reasonable costs incurred by the vendor prior to notice of termination. The COUNTY shall be the sole judge of "reasonable costs."
- B. Termination Due to Unavailability of Continuing Funding: When funds are not appropriated or otherwise made available to support continuation of performance in a current or subsequent fiscal year, the contract shall be cancelled and the CONSULTANT shall be reimbursed for the reasonable value of any non-recurring costs incurred amortized in the price of the supplies or services/tasks delivered under the contract.
- C. Termination for Default: The COUNTY reserves the right to terminate this contract, in part or in whole, or effect other appropriate remedy in the event the CONSULTANT fails to perform in accordance with the terms and conditions stated herein. The COUNTY further reserves the right to suspend or debar the CONSULTANT in accordance with the County ordinances, resolutions and/or administrative orders. The CONSULTANT will be notified by letter of the COUNTY's intent to terminate. In the event of termination for default, the COUNTY may procure the required goods and/or services from any source and use any method deemed in its best interest. All re-procurement cost shall be borne by the CONSULTANT.

5.4 Assignment of Agreement This Agreement shall not be assigned or sublet except with the written consent of Lake County's Procurement Services Director on behalf of the COUNTY. No such consent shall be construed as making the COUNTY a party to the assignment or subcontract or subjecting the COUNTY to liability of any kind to any assignee, subconsultant or subcontractor. No assignment or subcontract shall under any circumstances relieve the CONSULTANT of liability and obligations under this Agreement and all transactions with the COUNTY must be through the CONSULTANT. In the event the CONSULTANT is acquired in whole or in part by another entity, including any takeovers effectuated by a stock buyout, or similar acquisition process, the CONSULTANT shall notify the COUNTY immediately. The COUNTY shall have the option of terminating this Agreement in the event the acquiring entity does not meet with the COUNTY's approval.

5.5 Insurance.

CONSULTANT shall provide and maintain at all times during the term of this Agreement, without cost or expense to the County, policies of insurance, with a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring CONSULTANT against any and all claims, demands or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties, services and/or obligations of CONSULTANT under the terms and provisions of this Agreement. CONSULTANT is responsible for timely provision of certificate(s) of insurance to the County at the certificate holder address evidencing conformance with the contract requirements at all times throughout the term of the Agreement.

Such policies of insurance, and confirming certificates of insurance, shall insure the CONSULTANT in accordance with the following minimum limits:

General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	\$1,000,000/2,000,000
Products-Completed Operations	\$2,000,000
Personal & Adv. Injury	\$1,000,000
Fire Damage	\$50,000
Medical Expense	\$5,000
Contractual Liability	Included

Automobile liability insurance, including owned, non-owned, and hired autos with the following minimum limits and coverage:

Combined Single Limit	\$1,000,000
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Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc). If not required by law to maintain workers compensation insurance, the vendor must provide a notarized statement that if he or she is injured; he or she will not hold the County responsible for any payment or compensation.

Employers Liability insurance with the following minimum limits and coverage:

Each Accident	\$1,000,000
Disease-Each Employee	\$1,000,000

Disease-Policy Limit

\$1,000,000

Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) insurance as applicable, with minimum limits of \$1,000,000 and annual aggregate of \$2,000,000.

The following additional coverage must be provided if a dollar value is inserted below:

Loss of Use at coverage value: \$ _____
Garage Keepers Liability at coverage value: \$ _____

Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, shall be named as additional insured as their interest may appear on all applicable liability insurance policies.

The certificate(s) of insurance shall provide for a minimum of thirty (30) days prior written notice to the County of any change, cancellation, or nonrenewal of the provided insurance. It is the vendor's specific responsibility to ensure that any such notice is provided within the stated timeframe to the certificate holder.

If it is not possible for the CONSULTANT to certify compliance, on the certificate of insurance, with all of the above requirements, then the CONSULTANT is required to provide a copy of the actual policy endorsement(s) providing the required coverage and notification provisions.

Certificate(s) of insurance shall identify the applicable solicitation (RSQ) number in the Description of Operations section of the Certificate.

Certificate holder shall be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND
THE BOARD OF COUNTY COMMISSIONERS.
P.O. BOX 7800
TAVARES, FL 32778-7800

Certificates of insurance shall evidence a waiver of subrogation in favor of the County, that coverage shall be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium payment by the County.

CONSULTANT shall be responsible for subconsultants and their insurance. Subconsultants are to provide certificates of insurance to the prime vendor evidencing coverage and terms in accordance with the CONSULTANT's requirements.

All self-insured retentions shall appear on the certificate(s) and shall be subject to approval by the County. At the option of the County, the insurer shall reduce or eliminate such self-insured retentions or the CONSULTANT or subconsultant shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

The County shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the CONSULTANT and/or subconsultant providing such insurance.

Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.

Neither approval by the County of any insurance supplied by the CONSULTANT or Subconsultant(s), nor a failure to disapprove that insurance, shall relieve the CONSULTANT or Subconsultant(s) of full responsibility for liability, damages, and accidents as set forth herein.

5.6 Conflict of Interest. CONSULTANT hereby certifies that no officer, agent, or employee of COUNTY has any material interest, as defined in Chapter 112, Florida Statutes, either directly or indirectly in the CONSULTANT as a business entity, and that no such person shall have any such interest at any time during the term of this Agreement unless approved in writing by the COUNTY upon consultation with its attorney.

5.7 Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a consultant, supplier or sub-consultant under a contract with any public entity in excess of the threshold amount provided in Florida Statutes, section 287.017 for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

5.8 Indemnity.

A. The CONSULTANT shall indemnify and hold the COUNTY and its agents, officers, commissioners or employees harmless for any damages resulting from failure of the CONSULTANT to take out and maintain the above insurance. In accordance with Section 725.08, Florida Statutes, the CONSULTANT agrees for good and valuable consideration in the amount of ten dollars (\$10.00) to indemnify, and hold the COUNTY, its Governing Board, and its officers, commissions, and employees free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities to the extent resulting from the negligent act, error or omission of the CONSULTANT, its agents, employees or representative, in the performance of CONSULTANT'S duties set forth in this Agreement.

B. The CONSULTANT shall indemnify, defend, save and hold harmless the Florida Department of Transportation (FDOT), and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the CONSULTANT, its officers, agents, or employees. Neither the CONSULTANT, nor any of its officers, agents, or employees will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the FDOT, or any of its officers, agents or employees.

5.9 Independent Contractor. CONSULTANT agrees that it shall be acting as an independent contractor and shall not be considered or deemed to be an agent, employee, joint venturer, or partner of COUNTY. CONSULTANT shall have no authority to contract for or bind COUNTY in any manner and shall not represent itself as an agent of COUNTY or as otherwise authorized to act for or on behalf of COUNTY.

5.10 Ownership of Deliverables. Upon completion of and payment for a task CONSULTANT agrees all Tasks and/or deliverables under this Agreement, and other data generated or developed by CONSULTANT under this Agreement or furnished by COUNTY to CONSULTANT shall be and/or remain the property of COUNTY. CONSULTANT shall perform any acts that may be deemed necessary or desirable by COUNTY to more fully transfer ownership of all Tasks and/or deliverables to COUNTY, at COUNTY's expense. Additionally, CONSULTANT hereby represents and warrants that it has full right and authority to perform its obligations specified in this Agreement. CONSULTANT and COUNTY recognize that

CONSULTANT'S work product submitted in performance of this Agreement is intended only for the project described in this Agreement. COUNTY'S alteration of CONSULTANT'S work product or its use by COUNTY for any other purpose shall be at COUNTY'S sole risk.

5.11 Return of Materials. Upon the request of the COUNTY, but in any event upon termination of this Agreement, CONSULTANT shall surrender to the COUNTY all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials pertaining to the services hereunder, that were furnished to the CONSULTANT by the COUNTY pursuant to this Agreement. CONSULTANT may keep copies of all work product for its records.

5.12 NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE COUNTY BY REASON OF ANY DELAYS. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work from any cause whatsoever, shall relieve the CONSULTANT of his duty to perform or give rise to any right to damages or additional compensation from the COUNTY. The CONSULTANT expressly acknowledges and agrees that the CONSULTANT shall receive no damages for delay. The CONSULTANT'S sole remedy, if any, against the COUNTY shall be the right to seek an extension to the contract time. However, this provision shall not preclude recovery of damages by the CONSULTANT for hindrances or delays due solely to fraud, bad faith or active interference on the part of the COUNTY. Otherwise, CONSULTANT shall be entitled to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

The parties will exercise every reasonable effort to meet their respective obligations hereunder. Notwithstanding the above, the parties shall not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government law or regulation, acts of nature, acts or omissions of the other party, government acts or omissions, fires, strikes, natural disasters, wars, riots, transportation problems and/or any cause whatsoever beyond the reasonable control of the parties. Any such cause will extend the performance of the delayed obligation to the extent of the delay so incurred.

5.13 Retaining Other Consultants. Nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the CONSULTANT or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

5.14 Accuracy and Warranty. The CONSULTANT is responsible for the professional quality, technical accuracy, timely completion and coordination of all the services furnished hereunder. The CONSULTANT shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in its designs, drawings, reports or other services. Any corrections shall be made within thirty (30) calendar days after such deficiencies or non-conformances are verbally reported by the COUNTY. CONSULTANT agrees that the products and services provided under this Agreement shall be covered by the most favorable commercial warranty that CONSULTANT gives to any customer for comparable products and services.

5.15 Truth in Negotiation Certificate. For all lump-sum or cost-plus fixed fee professional services contract over the threshold amount provided in Section 287.017, Florida Statutes for CATEGORY FOUR for One Hundred Ninety-five Thousand dollars (\$195,000.00), the Department of Transportation requires that the respondent execute a certificate and include it with their submittal. Any agreement requiring this certificate shall contain a provision that the original agreement price and any additions shall be adjusted to exclude any significant sums by which the COUNTY determines the agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such agreement

adjustments shall be made within one (1) year following the end of the contract. Execution of this Agreement constitutes execution of the Truth in Negotiation Certificate.

5.16 Codes and Regulations. All work completed under this Agreement shall conform to all applicable federal, state and local statutes, codes, regulations and ordinances.

5.17 Prohibition Against Contingent Fees. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

5.18 Public Records/Copyrights.

A. All electronic files, audio and/or video recordings, and all papers pertaining to any activity performed by the Consultant for or on behalf of the COUNTY shall be the property of the COUNTY and will be turned over to the COUNTY upon request. In accordance with Chapter 119, Florida Statutes, each file and all papers pertaining to any activities performed for or on behalf of the COUNTY are public records available for inspection by any person even if the file or paper resides in the CONSULTANT's office or facility. The CONSULTANT shall maintain the files and papers for not less than three (3) complete calendar years after the Project/Service has been completed or terminated, or in accordance with any grant requirements, whichever is longer. Prior to the close out of the contract, the CONSULTANT shall appoint a records custodian to handle any records request and provide the custodian's name and telephone number(s) to the Contracting Officer.

B. Any copyright derived from this Agreement shall belong to the author. The author and the CONSULTANT shall expressly assign to the COUNTY nonexclusive, royalty free rights to use any and all information provided by the CONSULTANT in any deliverable and/or report for the COUNTY's use which may include publishing in COUNTY documents and distribution as the COUNTY deems to be in the COUNTY's best interests. If anything included in any deliverable limits the rights of the COUNTY to use the information, the deliverable shall be considered defective and not acceptable and the CONSULTANT will not be eligible for any compensation.

C. Pursuant to Section 119.0701, Florida Statutes, the CONSULTANT shall comply with the Florida Public Records' laws, and shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the COUNTY in order to perform the services identified herein.
2. Provide the public with access to public records on the same terms and conditions that the COUNTY would provide the records and at a cost that does not exceed the cost provided for by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
4. Meet all requirements for retaining public records and transfer, at no cost, to the COUNTY all public records in possession of the CONSULTANT upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided

to the COUNTY in a format that is compatible with the information technology systems of the COUNTY.

Failure to comply with this subsection shall be deemed a breach of the contract and enforceable as set forth in Section 119.0701, Florida Statutes

5.19 Right to Audit. The COUNTY reserves the right to require CONSULTANT to submit to an audit by any auditor of the COUNTY'S choosing. CONSULTANT shall provide access to all of its records which relate directly or indirectly to this Agreement at its place of business during regular business hours. CONSULTANT shall retain all records pertaining to this Agreement and upon request make them available to the COUNTY for three (3) years following expiration of the Agreement. CONSULTANT agrees to provide such assistance as may be necessary to facilitate the review or audit by the COUNTY to ensure compliance with applicable accounting and financial standards. Additionally, CONSULTANT agrees to include the requirements of this provision in all contracts with sub-consultants and material suppliers in connection with the work performed hereunder.

If an audit inspection or examination pursuant to this section discloses overpricing or overcharges of any nature by the CONSULTANT to the COUNTY in excess of one percent (1%) of the total contract billings, in addition to making adjustments for the overcharges, the reasonable actual cost of the COUNTY'S audit shall be reimbursed to the COUNTY by the CONSULTANT. Any adjustments and/or payments which must be made as a result of any such audit or inspection of the CONSULTANT'S invoices and/or records shall be made within a reasonable amount of time, but in no event shall the time exceed ninety (90) days, from presentation of the COUNTY'S audit findings to the CONSULTANT.

5.20 FDOT Inspections. CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information the Consultant shall so certify to the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information. If FDOT unilaterally cancels the Agreement between FDOT and the COUNTY for refusal of the CONSULTANT to allow public access to all documents, papers, letters or other materials subject to the provisions of Chapter 119, Florida Statutes, made or received in conjunction with this Agreement, the COUNTY shall have the right to unilaterally terminate this Agreement for cause. COUNTY reserves all legal rights and remedies to recover from CONSULTANT any funds paid hereunder that are not reimbursed through the Agreement if the COUNTY exercises its termination rights hereunder.

5.21 FDOT Required Assurances:

A. The CONSULTANT shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, hereinafter referred to as "USDOT", Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, hereinafter referred to as the "Regulations", which are herein incorporated by reference and made a part of this Agreement.

B. The CONSULTANT, with regard to the work performed during this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the

selection and retention of subconsultants and subcontractors, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations. Failure by the CONSULTANT to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the COUNTY deems appropriate.

C. The CONSULTANT shall not discriminate against any employee or applicant for employment because of race, age, religion, color, sex, national origin, disability, or marital status. The CONSULTANT shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, age, religion, color, gender, national origin, disability or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT shall insert this provision in all subcontract, except subcontracts for standard commercial supplies or raw materials.

D. It is understood and agreed that all rights of FDOT relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.

E. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of U.S.D.O.T., anything to the contrary in this Agreement notwithstanding.

F. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

G. In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this Agreement, the *Florida Department of Transportation* shall impose such contract sanctions as it or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* may determine to be appropriate, including, but not limited to: 1) withholding of payments to the CONSULTANT until the CONSULTANT complies, and/or 2) cancellation, termination or suspension of the contract, in whole or in part.

H. The CONSULTANT shall include the provisions of paragraphs C. through H. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the *Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a Consultant becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the Consultant may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the may request the United States to enter into such litigation to protect the interests of the United States.

I. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising there from.

J. No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.

K. The CONSULTANT shall agree to abide by the following statement from 49 CFR 26.13(b). This statement shall be included in all subsequent agreements between the CONSULTANT and any subconsultant or contractor.

The contractor, sub recipient, subconsultant or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

L. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Agreement.

M. It is understood and agreed that if the CONSULTANT at any time learns that the certification it provided the FDOT in compliance with 49 CFR, Section 26.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the CONSULTANT shall provide immediate written notice to the FDOT. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the CONSULTANT in all lower tier covered transactions and in all aforementioned federal regulation.

N. The FDOT hereby certifies that neither the CONSULTANT nor the CONSULTANT's representative has been required by the Department, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract,

1. To employ or retain, or agree to employ or retain, any firm or person, or
2. Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

The Department further acknowledges that this agreement will be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

O. The CONSULTANT hereby certifies that it has not:

1. Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above contractor) to solicit or secure this contract;
2. Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or

3. Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above contractor) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

The CONSULTANT further acknowledges that this Agreement will be furnished to the State of Florida Department of Transportation and a federal agency in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

Article 6. Miscellaneous Provisions

6.1 This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with, the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Lake COUNTY, Florida.

6.2 Neither party may assign any rights or obligations under this Agreement to any other party unless specific written permission from the other party is obtained.

6.3 The captions utilized in this Agreement are for the purposes of identification only and do not control or affect the meaning or construction of any of the provisions hereof.

6.4 This Agreement shall be binding upon and shall inure to the benefit of each of the parties and of their respective successors and permitted assigns.

6.5 This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto.

6.6 The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

6.7 During the term of this Agreement CONSULTANT assures COUNTY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that CONSULTANT does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discrimination in any form or manner against CONSULTANT employees or applicants for employment. CONSULTANT understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

6.8 CONSULTANT shall at all times comply with all Federal, State and local laws, rules and regulations.

6.9 The employee(s) of CONSULTANT shall be considered at all times its employee(s) and not an employee(s) or agent(s) of COUNTY. CONSULTANT shall provide employee(s) capable of performing the work as required. The COUNTY may require the CONSULTANT to remove any employee it deems unacceptable.

6.10 Any individual, corporation, or other entity that attempts to meet its contractual obligations with the COUNTY through fraud, misrepresentation or material misstatement, may be debarred for up to five (5) years. The COUNTY as a further sanction may terminate or cancel any other contracts with such individual, corporation, or entity. Such individual or entity shall be responsible for all direct or indirect costs associated with termination or cancellation, including attorney's fees.

6.11 With the consent of CONSULTANT, other agencies may make purchases in accordance with the contract. Any such purchases shall be governed by the same terms and conditions as stated herein with the exception of the change in agency name.

6.12 CONSULTANT shall act as the prime CONSULTANT for all required items and services and shall assume full responsibility for the procurement and maintenance of such items and services. CONSULTANT shall be considered the sole point of contact with regards to all stipulations, including payment of all charges and meeting all requirements of this Agreement. All sub-consultants will be subject to advance review by the COUNTY in terms of competency and security concerns. No change in sub-consultants shall be made without consent of the COUNTY. CONSULTANT shall be responsible for all insurance, permits, licenses and related matters for any and all sub-consultants. Even if the sub-consultant is self-insured, the COUNTY may require the CONSULTANT to provide any insurance certificates required by the work to be performed.

6.13 The CONSULTANT shall either be registered or have applied for registration with the Florida Department of State in accordance with the provisions of Chapter 607, Florida Statutes.

6.14 The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

6.15 Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail or sent by facsimile, addressed as follows:

If to CONSULTANT:

Tierra, Inc.
c/o Jeffrey Begovich
591 Susan B. Britt Court
Winter Garden, FL 34787

If to COUNTY:

County Manager
County Administration Building
315 West Main Street, Suite 308
Post Office Box 7800
Tavares, Florida 32778-7800
Fax: 352-343-5618

Each party hereto may change its mailing address by giving to the other party hereto, by hand delivery, United States registered or certified mail notice of election to change such address.

Article 7. Scope of Agreement

7.1 This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. Any items not covered under this contract will need to be added via written addendum, and pricing negotiated based on final specifications.

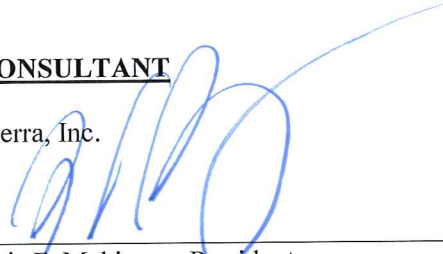
7.2 This Agreement contains the following Attachments, all of which are incorporated herein:

Attachment A	Scope of Work
Attachment B	Laboratory Testing and Sampling Schedule
Attachment C	Pricing Schedule

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chair and by CONSULTANT through its duly authorized representative.

CONSULTANT

Tierra, Inc.

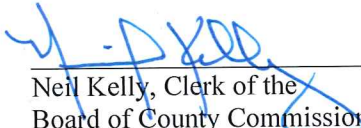

Luis F. Mahiquez, President

This 8 day of Feb, 2016.

COUNTY

Lake County, Florida


ATTEST:


Neil Kelly, Clerk of the
Board of County Commissioners
of Lake County, Florida


Sean M. Parks, Chairman

This 8th day of March, 2016.

Approved as to form and legality:


Melanie Marsh, County Attorney

ATTACHMENT A

SCOPE OF WORK

Purpose: Lake County seeks a firm to provide CEI, materials verification testing and post-design engineering services for the construction of the CR-466A Phase I from Sunny Court to US-27/441 Project (hereinafter referred to as the "project"). This Project involves the widening of CR-466A from Sunny Court to US-27/441 from the existing rural two-lane roadway to an urban four-lane roadway. The Project includes the widening of the roadway to provide two 11-ft through lanes in each direction with bike lanes adjacent to the outside lanes. Drainage improvements include the construction of two ponds, piping, curb inlets, and outfalls for the ponds. All crosswalks, sidewalks, and ramps will adhere to ADA standards. Additional improvements include the signing and pavement markings for the reconstructed corridor. Existing signals and poles will be removed at the intersection of CR-466A and CR-25A. A new traffic signal will be installed at the intersection of CR-466A and US-27/441.

Pursuant to the terms of this Agreement and its attachments, Consultant shall provide the following services for the County:

Tierra, Inc. will administer, monitor, and inspect the construction such that the project is constructed in reasonable conformity with the plans, specifications, and special provisions for the Construction Contract. Tierra, Inc., in conjunction with the COUNTY shall observe the Contractor's work to determine the progress and quality of Work, identify discrepancies, report significant discrepancies to the COUNTY, and direct the Contractor to correct such observed discrepancies.

On-site Inspection: Tierra, Inc. will assist the COUNTY as needed to monitor the Contractor's significant on-site construction activities and inspect materials entering into the work in accordance with the plans, specifications, and special provisions for the Construction Contract to determine that the project is constructed in reasonable conformity with such documents. The COUNTY shall keep detailed accurate records of the Contractor's daily operations and of significant events that affect the work. The COUNTY shall be responsible for monitoring and inspection of Contractor's Work Zone Traffic Control Plan and review of modifications to the Work Zone Traffic Control Plan, including Alternate Work Zone Traffic Control Plan, in accordance with COUNTY's procedures. Tierra, Inc. may assist the COUNTY and employees performing such services shall be qualified in accordance with the Department's procedure.

Sampling and Testing: Tierra, Inc. shall perform verification sampling and testing of component materials and completed work in accordance with the Construction Contract documents. The minimum sampling frequencies set out in the Department's Materials Sampling, Testing and Reporting Guide and/or The COUNTY specifications shall be met. While onsite Tierra, Inc. shall provide daily surveillance of the Contractor's Quality Control activities at the project site and perform the sampling and testing of materials and completed work items that are normally done in the vicinity of the project for verification. Tierra, Inc. shall be specifically responsible for job control samples determining the acceptability of all materials and completed work items on the basis of either test results or verification of a certification, certified mill analysis, FDOT label, FDOT stamp, etc. Sampling, testing and laboratory methods shall be as required by the COUNTY's Standard Specifications, Supplemental Specifications or as modified by the Special Provisions of the Construction Contract. Documentation reports on sampling and testing performed by Tierra, Inc.

shall be submitted to responsible parties during the same week that the construction work is done, Tierra, Inc. will furnish all acceptance testing information and data to the COUNTY in an acceptable format.

Engineering Services: Engineering services include maintaining the required level of surveillance of Contractor activities, interpreting plans, specifications, and special provisions of the Construction Contract, maintaining complete, accurate records of all activities and events relating to the project, and properly documenting all significant project changes. Tierra, Inc. shall perform; but, not be limited to the following services:

Assist the COUNTY with the preparation of the pre-construction meeting(s) and attend pre-construction meeting(s) with the Contractor and COUNTY.

Coordinate the relocation efforts with all utilities located in the project area.

Schedule and take the lead on bi-weekly progress meetings during construction.
Provide written responses to the COUNTY regarding contractors' requests for information (RFI).

Make site visits to answer field questions or to make necessary field adjustments.

Review and sign off on the as-builts at project completion.

Provide close out documents to satisfy FDOT Local Agency Agreement.

Clear applicable water management permits.

ATTACHMENT B
LABORATORY TESTING AND SAMPLING SCHEDULE

OPERATION	MATERIAL SPECIFICATION	TESTS	PROJECT REQUIREMENTS	TESTING FREQUENCY
Prime and Tack Coats	FDOT Standard Specifications (Latest Edition)		Certification	Every Transport
Type Superpave Asphaltic Concrete	FDOT Standard Specifications (Latest Edition)	Job Mix Formula	Certification	Each mix design or change of aggregates
		RICE (Gmm)		One per days production greater than 100 tons
		Extraction Gradation Analysis		One per each day of production greater than 100 tons
		Field Density (Gmb)	92% of Gmm	All travel lanes of roadway every 500 feet
		Asphalt	Certification	Every Transport
		Thickness		Core every 500 feet per lane
Pavement Smoothness	FDOT Standard Specifications (Latest Edition)	Rolling Straight Edge		Per Florida Method of Test FM 5-509
Concrete	FDOT Standard Specifications (Latest Edition)	Compression Strength		One (1) set of cylinders for 10 CY or more per day. Additional set(s) for each 50 CY/day. One (1) set for each class of concrete placed each day.
		Each class of concrete used	Certification	Each mix design or change
Embankment	Lake County Requirements	Modified Proctor AASHTO T-180		Per material type
		Field Density	95% AASHTO T-180	One test per 500 LF per 12" lift of embankment One test per 300 LF of pipe trench (or between structures) per 12" lift of backfill One test per 12" lift of structure backfill alternating sides
Compacted Subgrade	FDOT Standard Specifications (Latest Edition)	Modified Proctor AASHTO T-180		One per material type
		Field Density	98% AASHTO T-180	One per 300 LF of sidewalk One per driveway
Stabilized Subgrade	FDOT Standard Specifications (Latest Edition)	Limerock Bearing Ratio FM 5-515		One per 1,000 LF per lane One per 2,000 LF per shoulder
		Field Density/Thickness	98% AASHTO T-180	One per 300 LF per lane One per 500 LF per shoulder
		Field Density/Thickness	98% AASHTO T-180	One per 300 LF per lane One per 500 LF per shoulder

Sodding	FDOT Standard Specifications (Latest Edition) Section 575, Sodding, and Section 981	Each type of sod used	Certification	All seed, sod and mulch shall be free of noxious weeds and exotic pest plants, plant parts or seed listed in the current Category I "List of Invasive Species" from the Florida Exotic Pest Plant Council
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ATTACHMENT C
PRICING SCHEDULE

Consultant shall complete the services for the Project for the lump sum of \$219,480.00 based upon the following rate schedule:

Description	Weeks	hrs per wk	Unit Rate	Total Hours	Unit	Total
Initial Project Coordination						
Project Admin/Engineer Rudd	3	10	\$ 140.00	30 Per Hr		\$ 4,200.00
Resident Engineer/Sr. Engineer (Begovich)	3	8	\$ 150.00	24 Per Hr		\$ 3,600.00
Administrative	3	8	\$ 55.00	24 Per Hr		<u>\$ 1,320.00</u>
				Sub total Initial Project Coordination		\$ 9,120.00
Project Admin/Engineer (Rudd)	52	8	\$ 140.00	416 Per Hr		\$ 58,240.00
Project Admin/Engineer (Rudd) Utility Work	52	2	\$ 140.00	104 Per Hr		\$ 14,560.00
Resident Engineer/Sr. Engineer (Begovich)	52	2	\$ 150.00	104 Per Hr		\$ 15,600.00
Inspector (CEI)/Testing	52	20	\$ 60.00	1040 Per Hr		\$ 62,400.00
Inspector (CEI)/Testing Utility Work	52	10	\$ 60.00	520 Per Hr		\$ 31,200.00
Asphalt Plant Inspector	3	40	\$ 60.00	120 Per hr		\$ 7,200.00
Administrative	52	4	\$ 55.00	208 Per Hr		\$ 11,440.00
Administrative Utility Work	52	2	\$ 55.00	104 Per Hr		\$ 5,720.00
Laboratory Testing	1	1	\$ 3,500.00	1 LS		\$ 3,500.00
Laboratory Testing Utility Work	1	1	\$ 500.00	1 LS		<u>\$ 500.00</u>
				Sub Total Utility Work		\$ 51,980.00
				Sub Total CEI County Work		\$ 167,500.00
				Total=		\$ 219,480.00

Notes:

1. Reimbursible costs for offsite inspection are not included.
2. Based on a 365 day construction schedule.